

JURISDICTIONAL DETERMINATION

VIOLATOR/OWNER: Mr. Richard R. Burchill, HC 63, Box 1575-3; Challis Idaho 83226.

PROJECT LOCATION/WATERWAY: Challis Creek, White Valley Creek and their adjacent wetlands, Sec. 4, T.14N., R.18E., B.M., Custer County, Idaho

FILE NUMBER: NWW No. 043200030

PROJECT REVIEW COMPLETED: ☐ Office ☒ Field

Jurisdictional Determination (JD): (For sites regulated under 33 CFR 320-330)

- ☐ Preliminary JD - Based on available information, ☐ *there appear to be* or ☐ *there appear to be no* "waters of the United States" or "navigable waters of the United States" on the project site. A preliminary JD is not appealable.
- ☒ Approved JD - ☒ *There are* or ☐ *there are no* "waters of the United States" or "navigable waters of the United States" on the project site. An approved JD is an appealable action (Reference 33 CFR 331).
- (Note: JDs prepared by the Environmental Protection Agency are not appealable to the Corps of Engineers)

Basis of Jurisdictional Determination:

Waters defined under 33CFR 328.3(a) as "waters of the United States":

- ☐ (1) The presence of waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- ☐ (2) The presence of interstate waters including interstate wetlands¹.
- ☐ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters:
- ☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ (4) Impoundments of waters defined as a Water of the US.
- ☒ (5) The presence of a tributary to a water identified in (1) – (4) above.
- ☐ (6) The presence of territorial seas.
- ☒ (7) The presence of wetlands adjacent² to interstate or other waters of the US, except for those wetlands adjacent to other wetlands.

Waters defined under 33CFR 329 as "navigable waters of the United States":

- ☐ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Rationale for Basis: White Valley Creek is a perennial flowing stream which feeds into Challis Creek, which flows into the Salmon River. Flows in Challis Creek are routinely captured for irrigation and thus often the creek does not convey summer surface flows to the Salmon River.

The Salmon River supports traditional boater navigation upstream and downstream of the mouth of Challis Creek. Also, the Salmon River connects via surface flows to the Snake River an Interstate water of the U.S. as it crosses the state lines of Wyoming, Idaho, Oregon, and Washington.

Lateral Extent of Jurisdiction: (Reference: 33 CFR 328 and 329)

- ☐ Ordinary High Water Mark indicated by:
- ☐ clear, natural line impressed on the bank
 - ☐ the presence of litter and debris
 - ☐ changes in the character of soil
 - ☐ destruction of terrestrial vegetation
 - ☐ shelving
 - ☐ other: _____
- ☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
 - ☐ fine shell or debris deposits (foreshore)
 - ☐ physical markings/characteristics
 - ☐ tidal gages
 - ☐ other: _____
- ☐ Mean High Water Mark indicated by:
- ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types
- ☐ In ocean or coastal area, site is within a zone three geographic (nautical) miles seaward of the baseline³
- ☐ Wetland, as shown on the attached wetland delineation map and/or in a jurisdictional report prepared by: _____

☐ Additional supporting information attached:

Preparer: _____ **Date:** _____

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

³Baseline is the line on the shore reached by the ordinary low tides from which the distance of three miles is measured.